IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 4362 OF 2006

DATE OF DECISION: OCTOBER 31, 2006

Parties Name

Jasvir Singh

..PETITIONER

VERSUS

Punjab and Sind Bank and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE PRITAM PAL

PRESENT: Mr. K.S. Dadwal,
Advocate, for the petitioner.

Mr. I.P.Singh, Advocate, for the respondents.

JASBIR SINGH, J. (oral)

Order.

This writ petition has been filed with a prayer to quash the public notice regarding sale of land, measuring 34 Kanals 14 Marlas, detail of which has been given in document Annexure P-2. It is not in dispute that the above said property was mortgaged by its original owner to secure loan advanced in favour of M/s Ramo Rice Mills and M/s Ramo Modern Huller Village Tagger Kalan, tehsil Mukerian. It appears that in good faith, the petitioner has purchased the property from the original owner for an amount of Rs. 25,00,000/-, out of which Rs. 14,00,000/- stood paid to the original owner. His suit for specific performance is pending before the competent Court. Counsel for the petitioner, by referring to photograph Annexure P-4, states that after purchase of the property in dispute, he has constructed a

house thereon and if the land is taken away from him at this stage, he will be on the road without any roof over his head. It is an admitted fact that apart from property, referred to above, five other properties were mortgaged to secure the loan, advanced to the principal debtor. In the notice, under challenge, reserve price of the property is mentioned at Rs. 24,20,000/-. Counsel for respondent No.1 has admitted that in response to the notice, referred to above, no offer was received. For that, an attempt has been made to shift the burden to the petitioner, by stating that as he has raised hue and cry at the time of bid, as such nobody came forward to purchase that property.

When this matter came up for the first time, before this Court, following order was passed:

> "Let, in the first instance, notice of motion issue to respondents No. 1 to 3 to show cause as to why the petition be not admitted, returnable on May 24, 2006.
>
> In the meanwhile, subject to the petitioner's depositing with respondent No. 1 an amount of Rs. 15 lacs within two weeks from today, of course, without prejudice to the rights and contentions of both the parties, the bids received pursuant to the Public Notice, dated 26th February, 2006, in respect of property mentioned at Serial No. 3 of the said Notice (Annexure P-2), shall not be finalised."

Consequent to the order, referred to above, petitioner has deposited Rs. 15,00,000/- with the respondent- Bank. As per information supplied, that amount is lying deposited in a no lien account. Be that as it may, the above said amount can be appropriated by the respondent-Bank towards recovery of the loan. Admittedly, reserve price of the property is

fixed at Rs. 24,00,000/-. At the time of hearing before this Court, petitioner was asked to purchase this property for an amount of Rs. 26,00,000/-, to which, on persuation of the Court, petitioner has agreed. We feel that as no tender was received, despite publication of the notice for sale, the amount of Rs. 26,00,000/- is sufficient and reasonable , for which this property can be sold by the respondent – Bank to the petitioner.

In view of facts, mentioned above, this writ petition is disposed of with a direction to the respondent – Bank to execute sale deed in favour of the petitioner, of the land measuring 34 Kanals 14 Marlas, as mentioned in document Annexure P-2, for an amount of Rs. 26,00,000/-. Rs. 15,00,000/- have already been deposited by the petitioner. Remaining amount shall be paid by him to the respondent - Bank within one month from today. Upon his doing so, sale deed be executed in his favour forth-with. Expenses for the sale deed shall also be borne by the petitioner. If the petitioner fails to deposit the remaining amount, this writ petition shall be deemed to have been dismissed and in that event, petitioner shall be entitled to get back Rs. 15,00,000/-, lying deposited with the Bank.

(Jasbir Singh)
Judge

(Pritam Pal)
Judge

October 31, 2006.
DKC